

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
) CASE NO.: 1:17-CR-37
)
VS.)
)
GEORGE MUZIO, JR.,)
Defendant.)
_____)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HON. MAE A. D'AGOSTINO
THURSDAY, DECEMBER 20, 2018
ALBANY, NEW YORK

FOR THE GOVERNMENT:

Office of the United States Attorney
By: Emmet J. O'Hanlon, AUSA
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FOR THE DEFENDANT:

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THERESA J. CASAL, RPR, CRR, CSR
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THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY

USA v. Muzio - 17-CR-37

1 (Court commenced at 12:33 PM.)

2 THE CLERK: Today is Thursday, December 20, 2018.
3 The time is 12:34 PM. The case is United States of America
4 versus George Muzio, Jr., case number 17-CR-37. We are here
5 today for a sentencing. May we have appearances for the
6 record, please.

7 MR. O'HANLON: Assistant U.S. Attorney Emmet
8 O'Hanlon for the Government. Good afternoon, your Honor.

9 THE COURT: Good afternoon.

10 MR. KINDLON: Lee Kindlon on behalf of Mr. Muzio,
11 who sits to my right. Good afternoon, your Honor.

12 THE COURT: Good afternoon to both of you. Let me
13 ask: Do both counsel have the final presentence report
14 dated November 3, 2018, and the addendum dated November 28,
15 2018? Mr. O'Hanlon, do you have those?

16 MR. O'HANLON: The Government does, your Honor.

17 MR. KINDLON: We do as well, your Honor.

18 THE COURT: All right. And have you shared those
19 reports with Mr. Muzio?

20 MR. KINDLON: Yes, your Honor, we've reviewed them
21 extensively.

22 THE COURT: Thank you. The record should reflect
23 that I have carefully reviewed both of those reports. In
24 addition, the record should reflect that I have reviewed all
25 submissions by counsel, the 2018 edition of the Sentencing

USA v. Muzio - 17-CR-37

1 Guidelines manual, and the factors outlined in 18, United
2 States Code, Section 3553(a). I have also reviewed the
3 photographs that support Counts 1 and 2 of the superseding
4 indictment.

5 I find that the total offense level is 43, the
6 criminal history category is I, and the guideline
7 imprisonment range is life, or 6,000 months. Counts 1 and 2
8 each have 15-year statutory minimum sentences; Counts 3
9 through 8 each have 5-year statutory minimums; and Count 9
10 has no statutory minimum.

11 Does the Government have any ongoing objections to
12 the facts, the offense level calculation or the criminal
13 history as set forth in the presentence investigation
14 report?

15 MR. O'HANLON: No objection, your Honor.

16 THE COURT: Does the defendant have any ongoing
17 objections to the facts, the offense level calculation or
18 the criminal history as set forth in the presentence report?

19 MR. KINDLON: Other than what was written in our
20 sentencing memorandum, Judge, we have no other issues with
21 the calculation.

22 THE COURT: All right. And just so the record is
23 clear, essentially, what you were saying in your memo was
24 that the Guidelines were not calculated improperly, but you
25 find them to be excessively high under the case law that you

THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY

USA v. Muzio - 17-CR-37

1 cited.

2 MR. KINDLON: That's correct, your Honor.

3 THE COURT: But not the computation itself.

4 MR. KINDLON: That's correct, your Honor.

5 THE COURT: All right. Thank you. Does the
6 Government wish to say -- the record should also reflect
7 before I get to anything that the attorneys want to say that
8 I have also carefully reviewed letters from George Muzio,
9 Jr., Jennifer Desmond, Cindy Muzio, Michael Cone, Julie
10 Cone, Crissy Cohn, Shannon Willett, Patricia Gaston, Carolyn
11 McCulloch, Mr. and Mrs. George Muzio, Sr., and a letter from
12 Mr. Muzio's children.

13 Does the Government wish to say anything before I
14 impose sentence?

15 MR. O'HANLON: Yes, thank you, your Honor. Your
16 Honor, as an initial matter, the sheer scope of defendant's
17 exploitation of vulnerable young girls via the internet
18 using his iPhone and several different social media
19 applications is overwhelming. The damage inflicted on the
20 14 documented victims who the defendant manipulated, coerced
21 and enticed to take and send him naked and sexually explicit
22 pictures of themselves will impact them for the rest of
23 their lives.

24 Defendant acknowledged to Probation that he
25 utilized other instant messaging applications in addition to

USA v. Muzio - 17-CR-37

1 Kik to communicate with these minors and estimated that he
2 had contacted approximately well over 100 minors online and
3 that for at least 75 percent of those contacts, they were
4 sexual in nature.

5 The victims lived in various locations across
6 North America; one lived in Australia. Their ages ranged
7 from 11 to 17 years old. However, the majority were between
8 13 and 14 years old at the time that they were in
9 communication with the defendant.

10 In his text message communications with the
11 various underage girls, defendant claimed to be a teenage
12 boy named Junior and he repeatedly requested and received
13 naked photographs from each of the girls and videos from
14 some of them as well.

15 Of note, in an apparent attempt to obtain sympathy
16 from the minors to produce and send him pornographic images
17 of themselves, the defendant told many of the minors that he
18 was suffering from cancer and was undergoing surgery to
19 remove cancerous tumors. Also, he utilized these false
20 assertions to induce minors to produce pornographic images
21 and videos of themselves.

22 Another factor in aggravation is the fact that the
23 defendant traded some of these images and videos that he
24 obtained from the victims with at least two other users that
25 the Government is aware of without the knowledge of the

USA v. Muzio - 17-CR-37

1 victims. The defendant and the other users also traded user
2 names of girls for whom they had obtained sexual images,
3 videos and gave each other suggestions for ways to approach
4 the girls online so the others could contact and proposition
5 the girls for additional images and videos.

6 The Government is particularly troubled by the
7 fact that while reviewing the electronic media seized from
8 the defendant's residence, investigators discovered 6 DVDs
9 that had hundreds of video clips of an adolescent female,
10 later identified as the minor daughter of defendant's
11 neighbors, who was determined to be between the ages of
12 14 and 16 when the videos were taken. Videos were taken
13 from the second floor front and side windows of the
14 defendant's residence and depict the girl exiting her
15 residence, entering the families' vehicles, walking back to
16 her residence and are focused on her breasts and buttocks
17 areas.

18 Of the sentencing purposes set forth in Title 18,
19 U.S. Code, Section 3553(a), the Government submits the
20 purpose most relevant to the instant case is set forth in
21 subsection (2)(c), which explains the sentence needs to
22 protect the public from further crimes of the defendant. In
23 this case, the defendant's charged conduct evinces his
24 abiding sexual interest in young female children, an
25 interest that was put into action by the defendant over the

USA v. Muzio - 17-CR-37

1 internet and in his own neighborhood and which resulted in a
2 pattern of activity which resulted in the sexual abuse of
3 approximately 75 minors by the defendant.

4 For these reasons, your Honor, the Government is
5 seeking a sentence of imprisonment that is within the
6 guidelines range and that takes into account the 15-year
7 mandatory minimum that applies in this case and that upon
8 release, the defendant be placed on supervised release for
9 the period of his life. Thank you, your Honor.

10 THE COURT: All right. Thank you. Mr. Kindlon,
11 do you wish to say anything before I impose sentence.

12 MR. KINDLON: Yes, your Honor, thank you. I've
13 represented George since May of 2016, which I think for him
14 has been a lifetime because where he has -- where he was and
15 where he is today, it's as if it's two different people. I,
16 we, understand the gravity of the Government's charges,
17 certainly Mr. Muzio is stepping forward and accepting a plea
18 and taking a plea to all of the charges, he wanted to accept
19 responsibility and break from what was a very dark and awful
20 time in his life and some dark and, frankly, awful things
21 that he did to the victims.

22 But, Judge, amongst all this darkness, I've seen,
23 he's seen, his family has seen a real emergence, a glimmer
24 of hope. George was out on supervised release from May of
25 2016 until earlier this year when he took a plea. Over that

USA v. Muzio - 17-CR-37

1 time, we saw while he was on supervised release his
2 improvement, in terms of mental health, his stability, and
3 his family, his relationships with his wife, his children,
4 his parents, his aunt, everyone who has come here today to
5 support him. And your Honor, I ask that the Court take
6 those things into account and that this is not a life at
7 37 years old that is worth incarcerating for the rest of his
8 life, but this is a life worth saving. And I, in sentencing
9 submissions, did say and have argued that the guideline
10 range is excessive and that there should be a sentence that
11 should punish Mr. Muzio, that should find him treatment
12 within the Bureau of Prisons, but also give him an
13 opportunity to finally, you know, end this journey on his
14 own terms and give him the opportunity to emerge from
15 incarceration, be again with his family and be on probation,
16 yes, for the rest of his life, but certainly give him an
17 opportunity to live his life outside of the walls of the
18 Bureau of Prisons.

19 And so, therefore, your Honor, we would ask for a
20 period of incarceration, as I did in my memo, perhaps -- we
21 understand that there are mandatory minimums here, but
22 perhaps run a series of those concurrently with one another
23 so that he is given the opportunity to go home to his
24 family. Thank you.

25 THE COURT: Thank you. Mr. Muzio, do you wish to

USA v. Muzio - 17-CR-37

1 say anything before I impose sentence?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Go ahead.

4 THE DEFENDANT: I would like to apologize to the
5 courts and I would like to apologize to my victims and to
6 their families. Everything that -- everything that I wanted
7 to say I had put in my letter that I had wrote to you. I
8 was kinda nervous about speaking today, so I don't really
9 have a whole lot to say. And I would like to apologize with
10 all my heart for the things that I've done and to who I have
11 affected negatively.

12 THE COURT: All right. Thank you, sir. And I
13 will again state that I did carefully review the letter that
14 you sent in.

15 This afternoon, we're here today for a sentencing
16 that is taking place in open court, as it must, but I will
17 be discussing issues that, if given the choice, I would
18 prefer not to discuss in a public setting. But I'm going to
19 discuss them in this public setting because the law requires
20 it and also because, Mr. Muzio, you have an absolute right
21 to know why I am sentencing you to the term that I am
22 sentencing you to, the public has the right to know, and
23 that will make the proceeding uncomfortable for many, but
24 also a reviewing court will need to know exactly why I am
25 sentencing Mr. Muzio the way that I am this afternoon.

**THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY**

USA v. Muzio - 17-CR-37

1 The topic of today's sentencing is very difficult,
2 many of the words that I will speak were the words of
3 Mr. Muzio, not me, and they will reflect the seriousness of
4 the crimes that Mr. Muzio was involved in.

5 I start with Counts 1 and 2, sexual exploitation
6 of children. Make no mistake, this crime involves children.
7 Mr. Muzio, you pretended to be a teenage boy with these
8 children. In some instances, you did tell these children
9 that you were suffering from cancer -- not these two
10 specifically, but many of the children that you communicated
11 with electronically -- and you really acted as a predator
12 with these children.

13 Victim 1 was born in 2003. The period of time for
14 the crime with Victim 1 was 2014, making Victim 1 11 years
15 old.

16 Victim 2 was born in 2002. The crime was
17 perpetrated in 2015, making Victim 2 approximately age 13 at
18 the time of the crime.

19 Pure and simple, these are children that we are
20 talking about.

21 I've read all of the text messages and
22 conversations that you had with these victims. The record
23 should reflect that with respect to Victim 1, there were
24 over 2,000 text messages going on between you and that
25 child. With respect to Victim 2, there were approximately

USA v. Muzio - 17-CR-37

1 4,700 messages between you and that child. You preyed upon
2 these children in every possible way; first, by telling them
3 that you were a teenage male, and secondly, by constantly
4 demanding that they send you sexually explicit images.
5 Let's make no mistake, these are not undercover agents that
6 were being communicated with, these were not police
7 officers, these were female children. You sucked these
8 teenagers into sending you vile, pornographic images in many
9 instances by telling them that you loved them.

10 With respect to Victim 1, some of the
11 conversations went like this:

12 Muzio, Oh, I love you baby girl.

13 Victim 1, I love you more.

14 Victim 1, Baby, I'm so sorry I fell asleep.

15 Muzio, It's okay, baby, I love you so much. What
16 are you doing today? And can you please send me your video?

17 Muzio, Strip down to your panties and tell me how
18 bad you want to suck my dick and suck a couple fingers.
19 Make sure I can see your face, baby girl.

20 Victim 1, I'm sorry, I will do it, just I don't
21 want to say how much I want to suck your dick 'cause I have
22 a brother in -- right next to me in my room.

23 Victim one, I can't 'til later. I'm going to go
24 to the hospital. Never mind. Is nudes all you care about
25 from me?

USA v. Muzio - 17-CR-37

1 Muzio, No, it's not, but thanks for thinking that.

2 Victim 1, no, I'm sorry, baby, I just feel like
3 that's all we do when we talk.

4 Muzio, Well, do the video and I won't talk sexual
5 with you again.

6 Muzio, We are getting married when you get older.

7 I don't know what to say about that, other than
8 that it is vile and disgusting and you were, obviously,
9 taking a female child with no or little self-esteem at the
10 time and trying to draw her in to do these evil things
11 because you were telling her that you loved her and that you
12 wanted to marry her. Unacceptable in every, every aspect of
13 life, what you did.

14 With respect to Victim 2, and I'm only, you
15 know -- as I said, there were over 2,000 of these
16 conversations, I'm reading from a very, very small portion
17 of them. With respect to Victim 2, you begin conversations
18 by telling her, this child, that you're jerking off. You
19 tell her that you're going to "F" her really hard and ask
20 her if that's okay. You tell her to stay naked for you.
21 She then sends you a photograph of herself totally naked
22 with her pubic area and genitalia exposed. You tell her to
23 put her feet flat on the floor, cross her legs, tell her
24 again that you want a photo of her completely naked and
25 then, as you do with many of your victims, you ask her to

USA v. Muzio - 17-CR-37

1 put a hair brush into her genitalia area. She says that she
2 doesn't want to do that and you tell her not to be nervous.

3 There's a common theme with respect to all of the
4 children that you dealt with. Not only are you asking for
5 disgusting, pornographic images, but you are consistently
6 asking your victims to show you their faces, as well as
7 their genitalia, and you're constantly asking these children
8 to place items into their vaginal area. And that's
9 consistent throughout.

10 The record also needs to reflect that your victims
11 came from all across the United States and all across the
12 world. You had victims that you were communicating with
13 electronically in Montana, Georgia, California, Indiana,
14 Iowa, Kentucky, Louisiana, Massachusetts, New York, Oregon,
15 Texas, Australia, and Ottawa, Canada.

16 We are not talking about a few isolated
17 discussions with children. That would be bad enough. But
18 we're talking about thousands and thousands of conversations
19 with children all throughout the United States and
20 throughout the world. You knew just how to prey on these
21 victims. You knew just what to say when they would tell you
22 that they didn't want to do these things. Any reviewing
23 court has to understand that you were a predator in every
24 sense of the word. And sadly, your family has to understand
25 that and so does the community at large and so do the

THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY

USA v. Muzio - 17-CR-37

1 victims and the family members of the victims.

2 With respect to Counts 3, 4, 5, 6, 7 and 8 of the
3 superseding indictment, these counts involve distribution of
4 child pornography. So, in addition to the many, many
5 victims that you communicated with and essentially forced
6 and compelled, by your words, these youngsters to send you
7 egregious pornographic images, you also collected on your
8 computer numerous child pornography images and you shared
9 them with others.

10 On March 17, 2015, you were on your computer
11 connected to the internet sharing a video of a 12- to
12 14-year-old, who was initially fully clothed, but then takes
13 off her bra, her pants, removes her underwear and exposes
14 her genitalia.

15 On June 18, 2015, on your computer, you shared a
16 file of a 12- to 14-year-old girl, sitting in a chair,
17 exposing her breasts, pulling down her shorts, exposing her
18 naked pubic area to the camera and masturbating.

19 On July 12, 2015, you shared an image of an adult
20 male holding a child's head back and repeatedly inserting
21 his penis into her mouth.

22 On December 29, 2015, you shared a video or an
23 image of a 10- to 12-year-old girl, sitting naked in a chair
24 and masturbating.

25 On January 6, 2016, you shared an image of a

USA v. Muzio - 17-CR-37

1 12-year-old girl naked, kneeling on the ground in front of
2 an adult male with his penis exposed.

3 On January 19, 2016, you shared an image of a
4 14-year-old girl being coerced to insert an object into her
5 vagina.

6 On May 3, 2016, a search warrant was executed in
7 your home and agents found approximately 400 video files
8 depicting child pornography, including an image where an
9 adult male was inserting his penis into the vagina of a 10-
10 to 12-year-old girl while she cried in pain.

11 The letters that I received from your family
12 members and friends indicate that you were a good person, a
13 good father, that you were a baseball coach, that you did
14 good things in the community. But I'm afraid that many,
15 many people did not know about the life that you were
16 leading in the privacy of your computer and your iPhone.

17 The children that you compelled to send vile and
18 pornographic images of themselves to you have to live with
19 this forever. Children do stupid things and they're never
20 going to be able to forget what they did. The children that
21 you were viewing on your devices, who were being raped, were
22 real, they're not fake, they're not characters. They will
23 live with that forever. And actually, by sharing it with
24 other individuals, who are perverse like you, those images
25 will live on forever, Mr. Muzio; even when those children

USA v. Muzio - 17-CR-37

1 die, those images will still be on the internet.

2 These are the things that I am sentencing you for
3 today.

4 One of the victims who has been identified has
5 indicated that she's lost emotional trust of men, that it's
6 affected her ability to have healthy and happy
7 relationships, that she struggles with Post-Traumatic Stress
8 Disorder, that she doesn't want to be touched, that she's
9 had numerous counseling sessions and she still suffers. She
10 suffers from issues of judgment. And who would ever doubt
11 that?

12 When I review this case in its entirety, it's just
13 an egregious case, it's very, very difficult, even for
14 someone who's a Judge to discuss these things.

15 As I said previously, I reviewed and considered
16 all pertinent information, including, but not limited to,
17 the presentence investigation report, the addendum, the plea
18 agreement, the submissions by counsel, the 2018 edition of
19 the Sentencing Guidelines manual and the factors outlined in
20 18, United States Code, Section 3553(a).

21 I adopt the factual information and the guideline
22 applications contained in the presentence investigation
23 report.

24 I also carefully reviewed all of the letters that
25 I received in support of Mr. Muzio, and also a letter from

THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY

USA v. Muzio - 17-CR-37

1 the family whose daughter was surreptitiously taped by you,
2 Mr. Muzio, as she traveled to and from school. I also
3 reviewed the photographs that support Counts 1 and 2 of the
4 superseding indictment.

5 I find the total offense level is 43, the criminal
6 history category is I, and the guideline imprisonment range
7 is life, or 6,000 months, which happens to be 500 years.
8 Counts 1 and 2 each have 15-year statutory minimum
9 sentences, Counts 3 through 8 each have 5-year statutory
10 minimums and Count 9 has no statutory minimum.

11 After reviewing all of the facts in this case, the
12 Court will impose a non-guideline sentence. In doing so,
13 the Court notes that the guideline range, although
14 appropriately calculated, calls for a sentence of 6,000
15 months. The Court finds this is greater than necessary to
16 meet the goals of sentencing outlined in 18, United States
17 Code, Section 3553(a). However, in order for the sentence
18 to reflect the seriousness of the offense, promote respect
19 for the law and to provide just punishment for the offense,
20 afford adequate deterrence to criminal conduct and to
21 protect the public from further crimes of the defendant, the
22 Court determines that a lengthy term of imprisonment is
23 necessary to meet the goals of sentencing as noted above.

24 In determining the proper sentence, I have
25 considered the fact, as I said earlier, that the defendant

USA v. Muzio - 17-CR-37

1 portrayed himself as a stay-at-home father, actively
2 involved in his children's lives and activities at a time
3 when he committed this offense. Meanwhile, he was acting as
4 an online sexual predator, posing as a teenage boy and
5 inducing approximately 15 children, minor females, to become
6 nude and/or engage in sexually explicit activity for the
7 purpose of producing videos and still images of themselves
8 to send to him. The defendant used these depictions for
9 sexual gratification. There was also evidence uncovered of
10 the defendant trading user names, images and videos of some
11 of the females he had induced to produce nude and/or
12 pornographic images and videos of themselves. He also
13 distributed child pornography over a file sharing network,
14 which is how his conduct was initially detected.

15 The defendant not only acted as an online sexual
16 predator, he perpetrated the online child pornography
17 epidemic by distributing nude and pornographic images and
18 videos of minor females who he induced to at least one
19 other -- to whom he introduced to at least one other
20 individual. He also shared the female's social media user
21 names with the individual so he could also attempt to induce
22 the minors to produce further sexually explicit material of
23 themselves.

24 Although not a criminal offense, Muzio also
25 videotaped and photographed his neighbor's young minor

USA v. Muzio - 17-CR-37

1 daughter over a number of years, zooming in on her buttocks
2 and chest as she innocently walked to and from school, her
3 home and her car. This conduct was not uncovered until the
4 videos and photos of her were discovered during the forensic
5 examination after the defendant's arrest for the instant
6 offense. This conduct demonstrates that the defendant poses
7 a risk not only to minors online but to minors in the
8 community as well.

9 I have considered the defendant's history,
10 including his family circumstances, and apparent history of
11 mental health issues. But I note for the record that even
12 with the mental health issues that the defendant says that
13 he has, and even knowing that he does carry a diagnosis,
14 according to the family letters that I received, he was
15 carrying on with his life, coaching, being attentive to
16 family, being attentive to his parents. I mean, yes, he
17 carries a diagnosis of anxiety and a history of post -- of
18 some obsessive compulsive and I think Post-Traumatic Stress,
19 but he was carrying on with his life, by all accounts, and
20 that's obvious to me in the letters that I received from the
21 family members. But I do consider that he has a history of
22 mental health issues. I don't reject that, I accept it.

23 However, based upon the number of victims in this
24 case, both charged and uncharged, and the additional minor
25 females whom the defendant victimized even not to the extent

USA v. Muzio - 17-CR-37

1 that his conduct would constitute a federal offense, the
2 Court finds the only reason to impose a non-guideline
3 sentence in this case is the fact that the guideline range
4 calls for a sentence of 500 years. The Court does not find
5 any other mitigating factors which would warrant a sentence
6 outside of the guideline range.

7 I also note that after his arrest, the defendant
8 in this case indicated that he had been sexually abused, but
9 there was never any reporting of that until after the arrest
10 for the instant offense, as far as I can see from all of the
11 records that are in front of me.

12 Furthermore, the Court finds that regardless of
13 any potential miscalculations in the Guidelines scoring in
14 this case, I would have imposed the same sentence as I
15 believe it is sufficient but not greater than necessary to
16 meet the goals of sentencing outlined in 18, United States
17 Code, Section 3553(a). And again, I think that the sentence
18 that I will impose this afternoon complies with the 3553(a)
19 standards in that it needs to reflect the seriousness of the
20 offense, and this offense was egregiously serious; it needs
21 to promote respect for the law; it needs to deter further
22 criminal conduct; and it most definitely needs to protect
23 the public from further crimes from this predator.

24 Please stand for your sentence, Mr. Muzio.

25 Upon your plea of guilty on Counts 1, 2, 3, 4, 5,

THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY

USA v. Muzio - 17-CR-37

1 6, 7, 8 and 9 of the superseding indictment, it is the
2 judgment of the Court that you are committed to the custody
3 of the Bureau of Prisons for a period of 180 months on
4 Count 1, 180 months on Count 2 and 60 months on Count 3,
5 counts to run consecutively to each other, and 60 months on
6 each of Counts 4 through 9, counts to run concurrently to
7 each other and to Counts 1 through 3, for a total term of
8 imprisonment of 420 months. Again, the total term of
9 imprisonment is 420 months.

10 I recommend that the defendant participate in sex
11 offender treatment with the Bureau of Prisons.

12 Upon your release from imprisonment, you will be
13 placed on supervised release for a term of life on each of
14 Counts 1 through 9, the terms to run concurrently.

15 I have a number of conditions that I must go over,
16 conditions that will be placed on your supervised release,
17 and you may both be seated as I do this because they are
18 lengthy.

19 While on supervised release, you shall not commit
20 another federal, state or local crime and you shall comply
21 with the standard conditions that have been adopted by this
22 Court, as well as the following special conditions, which I
23 find are necessary and justified in this case based upon the
24 nature of the instant offense, as well as your history and
25 characteristics as the defendant, as outlined in detail in

USA v. Muzio - 17-CR-37

1 the presentence report and to promote rehabilitation of the
2 defendant:

3 You shall contribute to the cost of any
4 evaluation, testing, treatment and/or monitoring services
5 rendered in an amount to be determined by the Probation
6 Officer based on your ability to pay and the availability of
7 third-party payments.

8 You shall not have any direct contact with any
9 child you know or reasonably know to be under the age of 18,
10 including your own children, without the permission of the
11 Probation Officer. If you do have any direct contact with
12 any child you know or reasonably should know to be under the
13 age of 18, including your own children, without the
14 permission of the Probation Officer, you shall report this
15 contact to the Probation Officer within 24 hours. Now, I
16 have no evidence that you were a predator with your own
17 children, but in light of the breadth and scope of what you
18 have done, I am placing this condition upon you. Direct
19 contact includes written communication, electronic
20 communication, in-person communication or physical contact.
21 Direct contact does not include incidental contact during
22 ordinary daily activities in public places.

23 You shall not go to or remain at any place where
24 you know children under the age of 18 are likely to be,
25 including parks, schools, playgrounds, child care

USA v. Muzio - 17-CR-37

1 facilities, without the permission of the Probation Officer.
2 Again, this is because you have preyed on innocent children.

3 You shall not communicate or otherwise interact
4 with the following individuals: Victim 1, Victim 2,
5 Victims 3 through 5, Victims 6 through 13.

6 You shall undergo a psychosexual evaluation and,
7 if recommended by the evaluator, you shall participate in a
8 mental health treatment program, which may include, but will
9 not be limited to, participation in sex offense specific
10 treatment. The Probation Office must approve the location,
11 frequency and duration of treatment. You must abide by the
12 rules of the program.

13 Your supervision may include examination using a
14 polygraph, computerized voice stress analyzer or other
15 similar device to obtain information necessary for
16 supervision, case monitoring and treatment. You shall
17 answer the questions posed during the examination subject to
18 your right to challenge in a court of law the use of such
19 statements as violations of your Fifth Amendment rights. In
20 this regard, you shall be deemed to have not waived your
21 Fifth Amendment rights. The result of any examinations
22 shall be disclosed to the U.S. Probation Office and the
23 Court, but shall not be further disclosed without the
24 approval of the Court.

25 You shall not use or possess any computer data

USA v. Muzio - 17-CR-37

1 storage device or internet capable device unless you
2 participate in the Computer and Internet Monitoring Program
3 or unless authorized by the Court or the U.S. Probation
4 Office. If placed in the program, you will comply with all
5 of the rules of the program and pay the costs associated
6 with the program. The U.S. Probation Office may use and/or
7 install any hardware or software system that is needed to
8 monitor your use of a computer or internet capable device.
9 You shall permit the U.S. Probation Office to conduct
10 periodic unannounced examinations of any computer equipment,
11 including any storage device, internet capable device you
12 use or possess. This equipment may be removed by the U.S.
13 Probation Office or their designee for a more thorough exam.
14 You may be limited to possessing one personal internet
15 capable device to facilitate the U.S. Probation Office's
16 ability to effectively monitor your internet related
17 activity.

18 If your employment requires the use of a computer,
19 you may use a computer as long as you tell your employer
20 what the nature of your conviction is and the fact that your
21 conviction was facilitated by the use of a computer. The
22 Probation Office must confirm your compliance with this
23 notification.

24 While in treatment and for the remainder of
25 supervision following completion of treatment, you shall not

USA v. Muzio - 17-CR-37

1 view, possess, own, subscribe to or purchase any material,
2 including pictures, videotapes, films, magazines, books,
3 telephone services, electronic media, computer programs or
4 computer services that depict sexually explicit conduct as
5 defined in 18, United States Code, Section 2256(2).

6 The reason for the ban on pornography is that your
7 predatory nature is such that there is a concern that
8 viewing any pornography will lead you, in my view, to
9 further predatory behaviors.

10 You shall participate in a program for substance
11 abuse, which shall include testing for the use of controlled
12 substances, controlled substance analogues and alcohol. The
13 reason for this condition is that you do have a history, as
14 noted in the presentence investigation report, of substance
15 abuse, including abuse of alcohol, where you indicate that
16 you were drinking a full bottle of alcohol several times a
17 week. This may include outpatient treatment as recommended
18 by the treatment provider based upon your risk and needs.
19 You may also be required to participate in inpatient
20 treatment upon recommendation of a treatment provider and
21 upon approval of the Court. The Probation Office shall
22 approve the location, frequency and duration of outpatient
23 treatment. You shall abide by the rules of any treatment
24 program, which may include abstaining from alcohol. You
25 shall contribute to the cost of any evaluation and/or

USA v. Muzio - 17-CR-37

1 treatment in an amount to be determined by the Probation
2 Officer based on your ability to pay and the availability of
3 third-party payments.

4 You must participate in a mental health program,
5 which may include medical, psychological or psychiatric
6 evaluation and outpatient treatment as recommended by the
7 treatment provider based upon your risk and needs. You may
8 also be required to participate in inpatient treatment based
9 upon the recommendation of a treatment provider and upon
10 approval of the Court. The Probation Office shall approve
11 the location, frequency and duration of outpatient
12 treatment. You must abide by the rules of the program,
13 which may include taking medicine. You shall contribute to
14 the cost of any evaluation and/or treatment in an amount to
15 be determined by the Probation Officer based on your ability
16 to pay and the availability of third-party payments.

17 Based upon your past history of substance abuse
18 and for the purpose of substance abuse treatment
19 programming, you shall remain -- you shall refrain from the
20 use of alcohol and be subject to alcohol testing and
21 treatment while under supervision.

22 I don't have any psychological reports that, you
23 know, would tell me what the risk is for you reoffending,
24 Mr. Muzio, but your conduct was pervasive and ongoing, and
25 when I reference over 2,000 discussions with Victim 1 and

USA v. Muzio - 17-CR-37

1 over 4,000 discussions with Victim 2, that certainly leads
2 me to be concerned about the pervasive nature of your
3 activities and just common sense, although I cannot say to
4 any degree of certainty, if, when you get out of prison,
5 you're going to reoffend, I do not have any expert proof in
6 that regard. It's just that what you did went over a
7 significant period of time and it was relentless and it was
8 nationwide and it was even outside of the United States.

9 I find that based on your financial resources, as
10 well as your financial obligations, that you do have the
11 ability to pay restitution. Now, I will note for the record
12 that counsel for one of the victims, I believe in the
13 "Chelsea" series, has requested restitution in the amount of
14 \$10,000. In that application for restitution, the attorney
15 states that they have done a *Paroline* calculation. I
16 carefully reviewed those submissions by counsel and I do not
17 find a computation consistent with the *Paroline* case. I
18 find that the attorney cites awareness of the *Paroline* case
19 and then just states, "According to *Paroline*, we ask for
20 \$10,000." That's not how I award restitution. Under
21 *Paroline*, a trial court is supposed to take into account the
22 amount of the general losses and divide that amount by the
23 number of restitution orders already entered into in other
24 cases and with other defendants, and then the defendant
25 before the Court is supposed to pay his evenly-apportioned

THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY

USA v. Muzio - 17-CR-37

1 share.

2 I will allow counsel for the victim seeking
3 restitution to amend that request within 30 days from today
4 so that it truly meets the *Paroline* standards and then I
5 will issue a separate decision on restitution.

6 I find that based on your financial resources, as
7 well as your financial obligations, that you do not have the
8 ability to pay a fine or the additional special assessment
9 outlined in 18, United States Code, Section 3014. However,
10 you must pay to the Clerk of the Court a special assessment
11 of \$900, which is due and payable immediately.

12 You must consent to an entry of forfeiture to the
13 items outlined in the preliminary order of forfeiture.

14 Just a couple other things that I want to put on
15 the record.

16 I know, Mr. Kindlon, you asked me to take into
17 consideration the fact that the defendant apparently did not
18 commit any other offenses while he was on supervised
19 release, but I have to tell you that that provides me with
20 little solace in terms of fashioning a sentence that I think
21 is appropriate and reasonable. Most defendants, many
22 defendants know the severe consequences that they will face
23 if they violate the law again while they're on supervised
24 release, and I don't see that quite the way that you see it,
25 as a factor that would cause me to substantially vary from

THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY

USA v. Muzio - 17-CR-37

1 the Guidelines. But I recognize your argument, but I simply
2 just don't agree with you on that.

3 This year and last year, I sentenced an individual
4 for production and possession of child pornography, that was
5 a case involving a defendant with the last name of Sawyer.
6 That case went to the Second Circuit twice. In the final
7 decision from the Second Circuit, the Second Circuit stated
8 that the sentence that I imposed in that case, which was, I
9 believe, 30 years, it was characterized this way, quoting
10 from Sawyer: "The sentence is barbaric, without being all
11 that unusual."

12 I have to say that what I found barbaric in the
13 Sawyer case was what Mr. Sawyer did to two young children.
14 And what I find barbaric in this case is what Mr. Muzio did
15 to innocent children. Children are supposed to be able to
16 lead their lives without being subjected to this kind of
17 evil. Children are the people in society that we are
18 supposed to protect above all others. The barbarism for me
19 is what was done to these children and the way it was done.
20 I mean, we wish that we could protect all children from this
21 type of evil, but, obviously, we can't. And the sentence
22 that I imposed today, in my judgment, is a sentence that
23 takes into account all of the 3553(a) factors, it's a
24 sentence that I have tailored specifically to this
25 defendant, having read his electronic conversations with not

USA v. Muzio - 17-CR-37

1 just the two victims in Counts 1 and 2, but all of the other
2 victims who were not included in that count. It's a
3 sentence imposed on a man that would go so far as to tell
4 his victims that he loved them, that he would marry them,
5 that he himself had cancer; it's specific to this case.

6 Whether or not Mr. Muzio will reoffend when he
7 finishes this period of incarceration, I don't know.

8 Both parties have the right to appeal this
9 sentence in certain limited circumstances, except as
10 restricted by any waivers stipulated in the plea agreement.
11 You are advised to consult with your attorney to determine
12 whether or not an appeal is warranted. Any appeal must be
13 filed within 14 days of the date judgment is filed in this
14 case. I note for the record that the defendant waived his
15 right to appeal any sentence of 365 months or less in this
16 case.

17 Is there anything further from the Government?

18 MR. O'HANLON: No, your Honor.

19 THE COURT: Is there anything further from the
20 defense?

21 MR. KINDLON: No, your Honor.

22 THE COURT: The defendant is remanded. Court
23 stands adjourned.

24 (This matter adjourned at 1:28 PM.)

25 - - - - -

THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY

CERTIFICATION OF OFFICIAL REPORTER

I, THERESA J. CASAL, RPR, CRR, CSR, Official
Realtime Court Reporter, in and for the United States
District Court for the Northern District of New York, do
hereby certify that pursuant to Section 753, Title 28,
United States Code, that the foregoing is a true and correct
transcript of the stenographically reported proceedings held
in the above-entitled matter and that the transcript page
format is in conformance with the regulations of the
Judicial Conference of the United States.

Dated this 3rd day of January, 2019.

/s/ THERESA J. CASAL

THERESA J. CASAL, RPR, CRR, CSR

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**THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY**